

Exhibit A

Exhibit A

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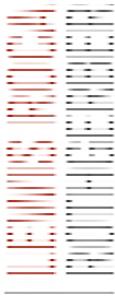
13 Attorneys for Plaintiff Bravo Company USA, Inc.

14
15 **UNITED STATES DISTRICT COURT**
15 **DISTRICT OF NEVADA**

16 Bravo Company USA, Inc., a Wisconsin
17 corporation,
18 Plaintiff,
19 vs.
20 Martin J. Bordson d/b/a Badger Ordnance, an
21 individual,
22 Defendant.

Case No. 2:14-cv-00387-RCJ-GWF
**FIRST AMENDED COMPLAINT
FOR DECLARATORY JUDGMENT
(JURY DEMAND)**

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Las Vegas, Nevada 89169



1 Plaintiff Bravo Company USA, Inc. (“Bravo Company”), submits its first amended
 2 complaint for declaratory judgment against Martin J. Bordson d/b/a Badger Ordnance (“Bordson”)
 3 seeking a declaration that certain Bravo Company products do not infringe U.S. patent numbers
 4 7,900,546 B2 (the “’546 Patent”) and 7,240,600 B1 (the “’600 Patent”). Bravo Company further
 5 contends that the ’546 Patent and the ’600 Patent are invalid.

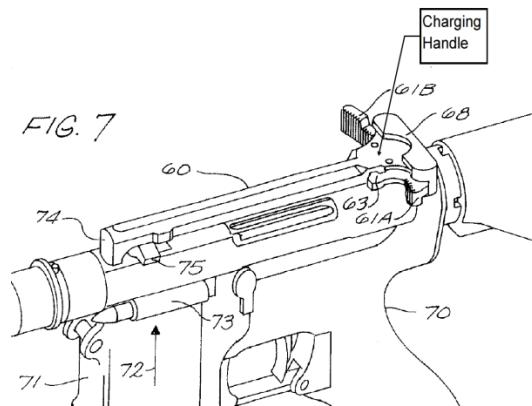
6 **THE PARTIES**

7 1. Bravo Company is a corporation organized under the laws of Wisconsin. Bravo
 8 Company maintains its research and development facility in the State of Nevada.

9 2. Bravo Company manufactures and sells firearm equipment and accessories.
 10 Among the firearm equipment and accessories sold by Bravo Company are the 5.56MM/223 Mod
 11 A44 Black Ambidextrous Charging Handle GFH 556 MOD A44 (“Ambidextrous Charging
 12 Handle Model A44”).

13 3. Bravo Company manufactures and sells the Ambidextrous Charging Handle Model
 14 A44 under a license from Abrams Airborne Inc., d/b/a Vltor Weapon Systems. Abrams Airborne
 15 Inc., d/b/a Vltor Weapon Systems, holds U.S. patent number 8,336,436 B2 for an “Ambidextrous
 16 Cam Style Charging Handle” (the “Abrams’ ’436 Patent”). (Exhibit A, true and correct copy of
 17 the Abrams’ ’436 Patent.)

18 4. A charging handle is used to engage the bolt assembly of a firearm so that a
 19 preliminary cartridge is loaded into the action, as illustrated in Figure 7 of the Abrams ’436 Patent:



(See, e.g., Exhibit A (annotation added).)

5. Defendant Bordson is identified as the sole inventor of the ’600 Patent. Defendant

1 Bordson is also identified as the sole inventor of the '546 Patent, which is a continuation of the
2 '600 Patent. True and correct copies of the '546 Patent and '600 Patent are attached as Exhibit B
3 and C, respectively.

4 6. Upon information and belief, Bordson is the sole inventor of the '600 Patent and
5 '546 Patent and has certain exclusive rights afforded a patent owner under the United States Patent
6 Act absent an assignment or license of those rights.

7 7. The United States Patent and Trademark Office assignment database does not
8 indicate the recordation of an assignment by and between Bordson and any other party for either
9 the '546 Patent or the '600 Patent. On information and belief, Bordson is the owner of the '546
10 Patent and the '600 Patent.

11 8. On information and belief, Bordson, individually, operates and does business under
12 the trade name Badger Ordnance.

JURISDICTION AND VENUE

14 9. Jurisdiction is proper in this Court because the litigation arises under federal law,
15 namely 35 U.S.C. § 1 *et seq.* The Court has jurisdiction over this action under 28 U.S.C. § 1331
16 (federal question), 28 U.S.C. § 1338(a) (patents), and 28 U.S.C. § 2201 (Declaratory Judgment
17 Act).

18 10. This Court has personal jurisdiction over Bordson d/b/a Badger Ordnance because
19 Bordson has established minimum contacts with the State of Nevada. Such minimum contacts
20 include providing charging handles marked with Bordson's '600 Patent number for sale by firearm
21 stores in the State of Nevada. For example, such charging handles are made available at the Lock
22 N Load firearm store located at 9340 S. Eastern Ave, Suite 104, Las Vegas, NV 89123. These
23 charging handles include but are not necessarily limited to the "BADGER UNIV CHRG HNDL
24 W/AMBI G1 LTCH," which prominently displays the '600 Patent number. The charging handle
25 product introduced into the stream of commerce in the State of Nevada and sold by Lock N Load
26 may be found at <http://www.locknloadgunstore.com/p-33628-badger-univ-chrg-hndl-wambi-g1-ltch.aspx>, a true and correct copy of said site attached hereto as Exhibit D.

28 ||| 11. On information and belief, at Bordson conducts business in the State of Nevada by

1 both selling patented products as well as other products to Nevada consumers through Nevada
2 firearms dealers (*see, e.g.*, Lock N Load's website offering multiple Badger Ordnance products for
3 sale (<http://www.locknloadgunstore.com/m-461-badger.aspx>) and his own website
4 ([http://www.badgerordnance.com/products/universal-charging-handle-with-right-and-left-hand-
gen-l-tactical-latch-2/](http://www.badgerordnance.com/products/universal-charging-handle-with-right-and-left-hand-gen-l-tactical-latch-2/))). True and correct copies of each of the aforementioned websites are
5 attached hereto as Exhibits E and F, respectively.

6
7 12. Bordson attends the Shooting, Hunting, and Outdoors Trade Show ("SHOT Show")
8 (the largest trade show for professionals involved with shooting sports and law enforcement),
9 which is annually held in Las Vegas, Nevada. Bordson (d/b/a Badger Ordnance) markets and sells
10 his patented products to Nevada consumers, Nevada firearm stores, and other buyers at the show
11 (*see* <http://shotshow.org/exhibitorlist/>, true and correct of copy of the SHOT Show's site listing
12 Badger Ordnance as a 2014 Exhibitor is attached as Exhibits G (highlighting added)). On
13 information and belief, Bordson intends to continue to introduce his patented products into the
14 stream of commerce in the State of Nevada by, among other ways, continuing to attend the show
15 and market his products to Nevada consumers and stores (*see*
16 <http://shotshow.csgcreative.com/2015-booth-renewel-appointments/>). A true and correct copy of
17 the SHOT Show's site listing when Badger Ordnance can select his booth location for the 2015
18 SHOT Show is attached as Exhibit H (highlighting added).

19
20 13. At Bordson's direction, his Nevada-based counsel and patent enforcement agent
21 has made direct allegations of infringement of the '546 Patent and '600 Patent with respect to
22 Bravo Company's Ambidextrous Charging Handle Model A44. Bordson, through his Nevada-
23 based counsel and patent enforcement agent, has further threatened legal action and demanded
24 Bravo Company stop selling the accused product. Bordson, through his Nevada-based counsel
25 and patent enforcement agent, has demanded that Bravo Company dispose of unsold products and
financially compensate Bordson.

26
27 14. Bravo Company, in addition to its research and development facility in the State of
28 Nevada, sells its accused product to Nevada consumers through Nevada firearms stores. For
example, Bravo Company makes its products available in the State of Nevada at the

1 aforementioned Lock N Load firearm store as evidenced by the website located at
2 <http://www.locknloadgunstore.com/p-49008-bcm-charging-hndl-556mm223-mod-a44.aspx>, a true
3 and correct copy of which is attached hereto as Exhibit I. Bravo Company also makes such
4 products available to Nevada residents through its own website, which may be found at
5 <http://www.bravocompanyusa.com/BCMGUNFIGHTER-Charging-Handle-s/123.htm>. A true and
6 correct copy of said listing from the Bravo Company website is attached hereto as Exhibit J.
7 Bravo Company also attends the SHOT Show in Las Vegas, Nevada, to market its accused
8 products and sells those products to consumers within the State of Nevada.

9 15. Bordson—through his Nevada-based attorney and enforcement agent, Bennet
10 Langlotz, Esq., has routinely sent cease and desist letters to other alleged infringers days before
11 the SHOT Show is to commence.

12 16. One of these letters was sent to Bravo Company, whose products were displayed
13 and marketed at the 2013 SHOT Show.

14 17. Sending such cease and desist letters mere days before the Las Vegas, Nevada,
15 SHOT Show evidences continued, directed, and intentional efforts by Bordson and his Nevada-
16 based attorney and enforcement agent to try to discourage accused infringers from marketing their
17 products at the show and competing with Bordson's patented device.

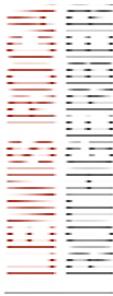
18 18. Bordson's Nevada-based attorney and enforcement agent has publically stated in a
19 book written by Bordson's Nevada-based attorney and enforcement agent that "[t]he threat of a
20 patent lawsuit will cause most infringers to stop."

21 19. Bordson's Nevada-based attorney and enforcement agent has publically stated in a
22 book written by Bordson's Nevada-based attorney and enforcement agent that "a brief letter . . .
23 along with a copy of the patent, is all it takes to get the products pulled from the shelves" because
24 "companies have no desire to get tangled up in a losing patent litigation Problem solved."

25 20. Nine of ten cease and desist letters sent by Bordson were sent within weeks of the
26 annual Las Vegas, Nevada, SHOT Show.

27 21. Bordson has also made the Nevada public aware—through publically available
28 writings—of the existence of his patents.

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1 22. Bordson has also made the Nevada public aware of his patents through his “Web
2 presence” in Nevada.

3 23. Bordson also has granted patent license agreements that grant licensees the right to
4 make, have made, use, sell, distribute, or offer to sell licensed products within the State of Nevada.

5 24. Any of Bordson’s patented products sold in the State of Nevada would bear the
6 number of his patents.

7 25. Bordson requires his licensees to mark any product sold in the State of Nevada with
8 the number of his patents.

9 26. Bordson’s actions demonstrate that he purposefully made persons located in
10 Nevada aware of the existence of his patents for one reason—to enforce his patent rights within
11 the State of Nevada. Bordson directly targets persons in Nevada for the purpose of discouraging
12 would-be infringers, including but not limited to those attending the Las Vegas, Nevada, SHOT
13 Show, from making, using, or selling accused products within the State of Nevada. These
14 deliberate, targeted enforcement activities were no mistake. Instead, they provide further
15 minimum contacts with the State of Nevada.

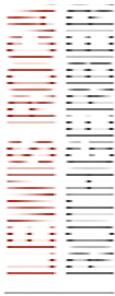
16 27. Bordson and/or his Nevada-based attorney and enforcement agent annually attend
17 the SHOT Show in Nevada for the purpose of, *inter alia*, identifying accused products.

18 28. Bordson travels semi-regularly to Nevada and plans to continue to do so. Bordson
19 comes to Nevada every year to the Las Vegas, Nevada, SHOT Show, in part, to review accused
20 products. Bordson and/or his Nevada-based attorney and enforcement agent use the Las Vegas,
21 Nevada, SHOT show to monitor other charging handles on the market and to identify potential
22 infringing products.

23 29. Bordson and his Nevada-based attorney and enforcement agent attended the SHOT
24 Show every year for the last five years and they par took in the same Nevada oriented enforcement
25 each year.

26 30. Every year Bordson and his Nevada-based attorney and enforcement agent used
27 the show for the purpose of identifying potentially infringing products and taking actions to
28 enforce Bordson’s patent rights.

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31. Bordson would also consult with his Nevada-based attorney and enforcement agent before directing him to send cease and desist letters.

32. A significant number of these consultations occurred while Bordson's Nevada-based attorney and enforcement agent was operating in Nevada from at least 2011 to 2013.

33. Langlotz's cease and desist communications—sent on behalf of Bordson as his Nevada based attorney and enforcement agent—also invited individuals to send parcels to his Nevada office for analysis and review.

34. Certain parcels were received at Langlotz's Nevada office.

35. The infringement allegations, threats of litigation, and other enforcement efforts by Bordson and his Nevada-based attorney and enforcement agent have all been made within the State of Nevada or directed at the state, with resulting harm and injury suffered by Bravo Company in the State of Nevada and the harm continue to occur in the State of Nevada.

36. The infringement allegations, threats of litigation, and demands have been made, among other times, on January 10, 2013, and again on February 19, 2014, after which the parties were not able to resolve this dispute. An actual case or controversy has therefore arisen, and the case is justiciable by the United States District Court for the District of Nevada. Venue is proper in this district under 28 U.S.C. § 1391 based on the factual allegations set forth in paragraphs 12 through 18.

GENERAL ALLEGATIONS

37. Bravo Company's Ambidextrous Charging Handle Model A44 does not satisfy each and every element of any valid and enforceable claims of the '546 Patent.

38. Bravo Company's Ambidextrous Charging Handle Model A44 is covered by a license to the Abrams' '436 Patent.

39. During the prosecution of the Abrams' '436 Patent, the patent examiner considered the '546 Patent of the Defendant as prior art, but still issued the Abrams' '436 Patent, notwithstanding the existence of the '546 Patent. The Abrams' '436 Patent is therefore inventive and distinct from the Defendant's '546 Patent.

40. The Ambidextrous Charging Handle Model A44 is—by virtue of at least its license

1 to the Abrams' '436 Patent—likewise inventive and distinct from the claim elements set forth in
2 the '546 Patent.

3 41. Bravo Company's Ambidextrous Charging Handle Model A44 does not satisfy
4 each and every claim element of any valid and enforceable claims of the '600 Patent.

5 42. The Ambidextrous Charging Handle Model A44 is inventive and distinct from the
6 claim elements of the '600 Patent.

7
8 **FIRST CAUSE OF ACTION**
(Declaratory Judgment of Non-Infringement the '546 Patent)

9 43. Bravo Company hereby incorporates by reference and re-alleges each of the
10 preceding allegations of the Complaint as though expressly stated herein.

11 44. Bordson's action—either directly or through those acting on his behalf—have
12 given rise to a case or controversy between Bravo Company and Bordson that is ripe for
13 adjudication regarding whether Bravo Company's Ambidextrous Charging Handle Model A44
14 infringes the '546 Patent.

15 45. Declaratory relief is necessary and appropriate in this case because the Court's
16 judgment on the issue of non-infringement will afford Bravo Company relief from the uncertainty
17 and controversy surrounding allegations and threats made by Defendant Bordson.

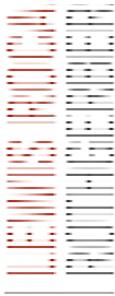
18 46. Bravo Company seeks a declaration that any use, manufacture, import, offer of
19 sale, or sale of its Ambidextrous Charging Handle Model A44 does not infringe the '546 Patent
20 literally, under the doctrine of equivalents, or contributorily.

21
22 **SECOND CAUSE OF ACTION**
(Declaratory Judgment of Non-Infringement the '600 Patent)

23 47. Bravo Company hereby incorporates by reference and re-alleges each of the
24 preceding allegations of the Complaint as though expressly stated herein.

25 48. Bordson's action—either directly or through those acting on their behalf—have
26 given rise to an actual case or controversy between Bravo Company and Bordson that is ripe for
27 adjudication regarding whether Bravo Company's Ambidextrous Charging Handle Model A44
28 infringes the '600 Patent.

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49. Declaratory relief is necessary and appropriate in this case because the Court's judgment on the issue of non-infringement will afford Bravo Company relief from the uncertainty and controversy surrounding allegations and threats made by Defendant Bordson.

50. Bravo Company seeks a declaration that any use, manufacture, import, offer of sale, or sale of its Ambidextrous Charging Handle Model A44 does not infringe the '600 Patent literally, under the doctrine of equivalents, or contributorily.

THIRD CAUSE OF ACTION **(Declaratory Judgment of Invalidity for the '546 Patent)**

51. Bravo Company hereby incorporates by reference and re-alleges each of the preceding allegations of the Complaint as though expressly stated herein.

52. Bordson's action—either directly or through those acting on their behalf—have given rise to an actual case or controversy between Bravo Company and Bordson that is ripe for adjudication regarding whether Bravo Company's Ambidextrous Charging Handle Model A44 infringes the '546 Patent.

53. Declaratory relief is necessary and appropriate in this case because the Court's judgment on the issue of invalidity will afford Bravo Company relief from the uncertainty and controversy surrounding allegations and threats made by Defendant Bordson.

54. One or more claims of the '546 Patent are invalid because they fail to meet the patentability requirements of Title 35, including, but not limited to, 35 U.S.C. §§ 101, 102, 103 and/or 112.

55. Bravo Company seeks a declaration that the claims of the '546 Patent are invalid.

FOURTH CAUSE OF ACTION
(Declaratory Judgment of Invalidity for the '600 Patent)

38. Bravo Company hereby incorporates by reference and re-alleges each of the preceding allegations of the Complaint as though expressly stated herein.

39. Bordson's action—either directly or through those acting on their behalf—have given rise to an actual case or controversy between Bravo Company and Bordson that is ripe for adjudication regarding whether Bravo Company's Ambidextrous Charging Handle Model A44

1 infringes the '600 Patent.

2 40. Declaratory relief is necessary and appropriate in this case because the Court's
3 judgment on the issue of invalidity will afford Bravo Company relief from the uncertainty and
4 controversy surrounding allegations and threats made by Defendant Bordson.

5 41. One or more claims of the '600 Patent are invalid because they fail to meet the
6 patentability requirements of Title 35, including, but not limited to, 35 U.S.C. §§ 101, 102, 103
7 and/or 112.

8 42. Bravo Company seeks a declaration that the claims of the '600 Patent are invalid.

9 WHEREFORE, Bravo Company prays for judgment as follows:

10 a. A declaration that any use, manufacture, import, offer of sale, or sale of its
11 Ambidextrous Charging Handle Model A44 does not infringe the '546 Patent literally, under the
12 doctrine of equivalents, or contributorily;

13 b. A declaration that any use, manufacture, import, offer of sale, or sale of its
14 Ambidextrous Charging Handle Model A44 does not infringe the '600 Patent literally, under the
15 doctrine of equivalents, or contributorily;

16 c. The claims of the '546 Patent are invalid;

17 d. The claims of the '600 Patent are invalid;

18 e. A holding that this case is exceptional and an award of costs and expenses to Bravo
19 Company, including reasonable attorney fees, in accordance with the provisions of 35 U.S.C.
20 § 285 or other statutes; and

21 f. An award of interest, costs, and such other relief as this Court deems appropriate.

22 ///

23 ///

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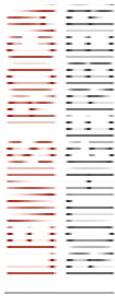
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28 ///

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JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Dated: this 22nd day of December, 2014

Respectfully submitted,

LEWIS ROCA ROTHGERBER LLP

By: /s/ Jonathan W. Fountain

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Attorneys for Plaintiff Bravo Compa

PRACTICAL POLYMER

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CERTIFICATE OF SERVICE

I hereby certify that, on December 22, 2014, I caused a true and accurate copy of the foregoing document entitled, **FIRST AMENDED COMPLAINT FOR DECLARATORY JUDGMENT**, to be filed with the Clerk of the Court using the Court's CM/ECF system, which will send electronic notice of the same to the following counsel of record:

- **Philip R. Erwin**
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Dated: this 22nd day of December, 2014

/s/ Jonathan W. Fountain
An Employee of Lewis Roca Rothgerber LLP

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